

**In The Court of Commissioner, Saran Division, Chapra**

**B.L.D.R. Appeal No. 157/2015**

**Sheikh Nasruddin & ors.**

**Vrs.**

**Maqasood Ahmad**

**ORDER**

The instant appeal petition is directed against the impugned order passed by DCLR, Siwan Sadar in case No. 183/378/2014-15 under BLDR Act. on 11.05.2015.

The brief facts of the case are that one Maqasood Ahmad S/o Late Abdul Wahab, R/o vill Gaziapur, Circle-Jiradei, Dist-Siwan filed a case before DCLR, Siwan Sadar as petitioner in which the present appellants were made as o.ps. In the said case, the prayer of the petitioner was that the disputed land measuring 10 dhur of khata No. 105, plot No. 504 in which when he started to construct a drain as outlet, the present appellants (o.ps before DCLR) created obstruction for which the said land be measured. Thereafter, the learned DCLR, after hearing the parties finally allowed the case vide order dt. 11.05.2015 and also directed the concerned C.O. to measure and demarcate the same in terms of boundary mentioned in the documents pertaining to the disputed land. Feeling aggrieved by the said order, the present appellants have preferred the instant appeal before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellants while assailing the impugned order on various grounds submitted that the learned DCLR has no jurisdiction to look into any case where any dispute of title arises and he also strongly said that in the instant case the dispute between the parties apparently relates to title. He further submitted that the learned DCLR has exercised the power which is beyond his jurisdiction and is not competent to exercise the same under the BLDR Act.

The learned counsel appearing on behalf of the respondent vehemently opposed the argument forwarded by the learned counsel for the parties and submitted that the respondent has still his possession over the disputed land. He further submitted that it is wrong to say that in the instant case involved any question of determination of title of the parties and nor the respondent had sought any relief to that regard before DCLR rather the DCLR has passed the order only for demarcation of the disputed land through measurement. He lastly submitted that the impugned order is legal, valid and proper and the same is fit to be upheld and this appeal petition lacking merit is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, pleadings made by the learned counsel for the parties and on perusal of the impugned order, it is seen that the dispute between the parties relates to their respective claim on one or another basis, over the disputed land. In fact both parties claim their possession over the said disputed piece of land, part of a big plot, on the basis of sale deed documents. What is more the land itself is a raiyati land, Although, it

is correct on the part of the respondent that the learned DCLR has not decided the title in his final order rather he only ordered for demarcation. This plea of respondent is not acceptable in view of the fact that dispute regarding raiyati land can not be resolved under the BLDR Act. The learned counsel for the appellant also emphasized this point. It is also an admitted fact that non of the parties are allottee or settlee and even their case does not come under the purview of the six enactments mentioned in schedule-1 of the BLDR Act., as such the case itself was not maintainable.

It is well established that the subject matter of adjudication under the BLDR Act. does not include such matters. The Hon'ble High Court in its judgment in CWJC No. 1091/2013 (Maheshwar Mandal & ors The State of Bihar & ors) on 24.06.2014 has observed that the revenue authorities are not empowered to entertain matter not arising out of the six enactments mentioned in schedule-1 of the BLDR act-2009. Obviously the instant matter does not fall under any of the said six enactments and as such it was not maintainable before the lower Court.

Thus, for the aforesaid reasons and keeping in view the observations made by the division bench of the Hon'ble High Court as quoted above, the impugned order of DCLR is set aside and the appeal is accordingly disposed of.

Dictated and Corrected by me.

Commissioner  
Saran Division, Chapra.

Commissioner  
Saran Division, Chapra.